



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

United Steelworkers of America

v.

Manchester Water Works

Case No. G-0058-24
Decision No. 2015-129

Pre-Hearing Memorandum and Order

Date of Conference: June 16, 2015

Appearances: Vincent A. Weners, Esq., for the Complainant

Thomas Arnold, III, Esq., for the Respondent

Background:

On April 8, 2015, the United Steelworkers of America (Union) filed an unfair labor practice complaint alleging that the City of Manchester Water Works (City) violated RSA 273-A:5, I (a), (b), (c), (e), (g), and (h) when it refused to provide a copy of or access to a personnel file of a bargaining unit employee, Mr. Carrigan, to the Union thereby interfering with the Union's ability to prepare for pending arbitration. The Union alleges that it filed a grievance on behalf of Tim Duval, a bargaining unit employee, on the ground that the City "failed to follow required procedures in promoting Mr. Carrigan and not Mr. Duval and ignored the contractual requirements that the [City] shall make 'promotions primarily on the basis of qualifications, ability to perform work, absentee record, performance of duty' and departmental seniority." The Union also alleges that it requires a copy of or access to Mr. Carrigan's personnel file in order to "demonstrate that he did not have the 'qualifications, ability to perform work, absentee record,

performance of duty' and departmental seniority to comply with the requirements of the CBA." The Union requests that the Board order the City to provide the Union with a copy of or access to Mr. Carrigan's personnel file.

The City denies the charges and asserts, among other things, that an employee's personnel file is confidential and cannot be released without the employee's written consent which has not been given in this case. The City also argues that the PELRB lacks jurisdiction over the Union's claims because the parties' collective bargaining agreement provides for final and binding arbitration and that the Union has failed to pursue this matter through binding arbitration. The City requests that the PELRB deny and dismiss the complaint with prejudice.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the PELRB has jurisdiction over the Union's claims.
2. Whether the City violated RSA 273-A:5, I (a), (b), (c), (e), (g), and/or (h) as charged by the Union.

DECISION

1. "Parties" means the Union, the City or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The parties shall file a Joint Pre-Hearing Worksheet no later than **June 23, 2015**. The Worksheet shall contain all information required under Pub 202.01 (c).
3. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **July 20, 2015**. It is understood that each party may rely on the representations of the other party that witnesses and exhibits appearing on their respective lists will be available at the hearing.

4. The requirement that the parties file copies of proposed exhibits prior to the date of adjudicatory hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing.
5. The parties shall pre-mark each exhibit by placing identifying markers in the upper right corner of each exhibit, if possible, and bring an original and five (5) copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **July 29, 2015, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is one hour. If either party believes that additional time is required, a written notice of the need for additional time shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

June 17, 2015



Karina A. Lange, Esq.
Staff Counsel/Hearing Officer

Distribution: Vincent A. Wenners, Esq.
Thomas Arnold, III, Esq.